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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,081	09/11/2003	Paul T. Van Gompel	659-1764 K-C Ref. No. 159	5888
7590	07/11/2005		EXAMINER MUSSEY, BARBARA J	
Andrew D. Stover BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610			ART UNIT 1733	PAPER NUMBER

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/660,081	Applicant(s) VAN GOMPEL ET AL.	
	Examiner Barbara J. Musser	Art Unit 1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/11/03</u> . | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8, 11, and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Putzer et al.(WO 98/27907) in view of Boland et al.(U.S. Patent 4,701,171) and Olson et al.(WO 00/35398)

Putzer et al. discloses a diaper with a fold in the backsheet which extends the length of the diaper and is tacked at the front and back waistband so that the folds do not unfold.(Pg. 9, ll. 1-10) The reference does not disclose the diaper front and back being extensible. Boland et al. discloses making the cover resiliently stretchable to result in a considerably improved fit.(Col. 3, ll. 28-55) The reference also does not disclose whether separate side panels are attached to the body of the diaper. Olson et al. discloses attaching separate side panels to the front and back of the diaper.(Figure 3(66); Pg. 16, ll. 34) It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the front and back covers of Putzer et al. extensible since this would result in an improved fit of the diaper(Col. 3, ll. 28-55) and to attach front and back side panels to the diaper since such separate side panels are well-known and conventional in the diaper art as shown for example by Olson et al. which discloses attaching separately formed side panels the body of the diaper.

Regarding claim 2, when forming a diaper, the outside edges of the front panels are attached to the outside edges of the back panels.

Regarding claim 3, Putzer et al. discloses the absorbent layer(50) can contain a fold which is interfolded with the fold in the backsheet.(Figure 4)

Regarding claim 4, Putzer et al. does not specifically disclose unfolding the folds so that the diaper lays substantially flat. However, one in the art would appreciate that the diaper would be capable of such(Figure 4) since there is nothing preventing it, and that when stretched, it would have a width wider than that when it is unstretched since the folded area would lay flat.

Regarding claim 5, since the portion of the diaper that is extensible at the front and back is the cover sheet to the diaper, it would be able to be extended without unfolding the folds in the backsheet, particularly since the folds are adhesively bonded closed.(Pg. 9)

Regarding claim 6, since the Figures of Putzer et al. show the folds are substantially wider than 10% of the width of the body, one in the art would appreciate that the difference between the expanded and unexpanded widths would be at least 10%, particularly since for the difference in width to be less than 10%, each fold would have to be less than 3% of the width of the composite.

Regarding claim 7, Putzer et al. discloses the topsheet being interfolded with the backsheet and absorbent core.(Figure 4)

Regarding claim 8, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an extensible cover over the absorbent

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composite of Putzer et al. as shown for example by Boland et al. which discloses an absorbent core with top and backsheets and a cover layer.(Figure 5)

Regarding claim 11, since the cover sheet of the diaper in Putzer et al. is the top sheet, one in the art would appreciate that

Regarding claim 14, Putzer et al. discloses elastic along the sides of the diaper.(Figure 1)

Regarding claim 15, Putzer et al. discloses the backsheet can be a film coated with a material to impart liquid impermeability.(Pg. 6) Such a coating is considered to be a barrier layer since the claim does not require it to be a preformed layer.

Regarding claim 16, Putzer et al. discloses elastic along the front and back edges of the diaper.(Figure 1(26))

Regarding claim 17, Olson et al. discloses the side panels can be made of an elastic material.(Pg. 17, ll. 15-23)

3. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Putzer et al.(WO 98/27907) in view of Van Gompel et al.(WO 00/30584) and Olson et al.(WO 00/35398)

Putzer et al. discloses a diaper with a fold in the backsheet which extends the length of the diaper and is tacked at the front and back waistband so that the folds do not unfold.(Pg. 9, ll. 1-10) The reference does not disclose the diaper front and back being extensible. Van Gompel et al. discloses making the cover resiliently stretchable to result in a considerably improved fit.(Pg. 2, ll. 16-18, 30-31) The reference also does not disclose whether separate side panels are attached to the body of the diaper. Olson

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et al. discloses attaching separate side panels to the front and back of the diaper.(Figure 3(66); Pg. 16, ll. 34) It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the front and back covers of Putzer et al. extensible since this would result in an improved fit of the diaper(Pg. 2, ll. 16-18, 30-31) particularly since Van Gompel et al. discloses using folds in conjunction with extensible covers(Figure 4A) and to attach front and back side panels to the diaper since such separate side panels are well-known and conventional in the diaper art as shown for example by Olson et al. which discloses attaching separately formed side panels the body of the diaper.

Regarding claim 2, when forming a diaper, the outside edges of the front panels are attached to the outside edges of the back panels.

Regarding claim 3, Putzer et al. discloses the absorbent layer(50) can contain a fold which is interfolded with the fold in the backsheet.(Figure 4)

Regarding claim 4, Putzer et al. does not specifically disclose unfolding the folds so that the diaper lays substantially flat. However, one in the art would appreciate that the diaper would be capable of such(Figure 4) since there is nothing preventing it, and that when stretched, it would have a width wider than that when it is unstretched since the folded area would lay flat.

Regarding claim 5, since the portion of the diaper that is extensible at the front and back is the cover sheet to the diaper, it would be able to be extended without unfolding the folds in the backsheet, particularly since the folds are adhesively bonded closed.(Pg. 9)

Regarding claim 6, since the Figures of Putzer et al. show the folds are substantially wider than 10% of the width of the body, one in the art would appreciate that the difference between the expanded and unexpanded widths would be at least 10%, particularly since for the difference in width to be less than 10%, each fold would have to be less than 3% of the width of the composite.

Regarding claim 7, Putzer et al. discloses the topsheet being interfolded with the backsheet and absorbent core.(Figure 4)

Regarding claim 8, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an extensible cover over the absorbent composite of Putzer et al. as shown for example by Van Gompel et al. which discloses an absorbent core with top and backsheets and a cover layer.(Figure 2A)

Regarding claims 9 and 12, Van Gompel et al. discloses the outer cover can elongate at least 1 cm when subjected to a force of 30 gmf per inch.(Pg 8, ll. 5-6)

Regarding claims 10 and 13, Van Gompel et al. discloses the extensible layer can provide a substantially permanent deformation of at least about 20% when subjected to a force of 50 gmf per inch and then allowed to relax for one minute.(Pg. 8, ll. 7-8)

Regarding claim 14, Putzer et al. discloses elastic along the sides of the diaper.(Figure 1)

Regarding claim 15, Putzer et al. discloses the backsheet can be a film coated with a material to impart liquid impermeability.(Pg. 6) Such a coating is considered to be a barrier layer since the claim does not require it to be a preformed layer.



Regarding claim 16, Putzer et al. discloses elastic along the front and back edges of the diaper.(Figure 1(26))

Regarding claim 17, Olson et al. discloses the side panels can be made of an elastic material.(Pg. 17, ll. 15-23)


### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara J. Musser whose telephone number is (571) 272-1222. The examiner can normally be reached on Monday-Thursday; alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571)-272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
BJM

  
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